

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

PICKET FENCE PREVIEW, INC.,
Plaintiff - Appellant,

vs.

Circuit No. 22-2066

District No. 2:21-cv-12

ZILLOW, INC.,
Defendant - Appellee.

INDEX

- A. Certified docket sheet.
- B. U.S. District Court electronic documents.
All filed documents are accessible through District Court CM/ECF.
- C. Clerk's Certification.

APPEAL,CLOSED,ENE4

**U.S. District Court
District of Vermont (Burlington)
CIVIL DOCKET FOR CASE #: 2:21-cv-00012-cr**

Picket Fence Preview, Inc. v. Zillow, Inc.

Assigned to: Judge Christina Reiss

Demand: \$3,400,000

Case in other court: Vermont Superior Court, Chittenden Unit,
20-CV-00924

Cause: 28:1446 Notice of Removal

Date Filed: 01/19/2021

Date Terminated: 08/24/2022

Jury Demand: Defendant

Nature of Suit: 410 Anti-Trust

Jurisdiction: Federal Question

Plaintiff**Picket Fence Preview, Inc.**

represented by **Thomas C. Nuovo , Esq.**
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ATTORNEY TO BE NOTICED

V.

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represented by **Heather P. Lamberg , Esq.**
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Date Filed	#	Docket Text
01/19/2021	<u>1</u>	NOTICE OF REMOVAL by Zillow, Inc. from Vermont Superior Court, Chittenden Unit, case number 20-CV-00924. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Certificate of Service, # <u>4</u> Civil Cover Sheet)(kp) (Entered: 01/20/2021)
01/19/2021	<u>2</u>	NOTICE OF APPEARANCE by Kevin M. Henry, Esq on behalf of Zillow, Inc.(kp) (Entered: 01/20/2021)

01/19/2021	<u>3</u>	CORPORATE DISCLOSURE STATEMENT pursuant to Local Rule 7.1(a) by Zillow, Inc. (kp) (Entered: 01/20/2021)
01/19/2021	<u>4</u>	STIPULATED MOTION for Extension of Time to File an Answer filed by Zillow, Inc.(kp) Event/text clarified on 1/20/2021 (law). (Entered: 01/20/2021)
01/20/2021	<u>5</u>	LETTER to state court requesting original case file and certified docket sheet. (kp) (Entered: 01/20/2021)
01/20/2021	<u>6</u>	MOTION for Admission Pro Hac Vice of Heather P. Lamberg filed by Zillow, Inc. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(law) (Entered: 01/21/2021)
01/20/2021	<u>7</u>	MOTION for Admission Pro Hac Vice of Lauren Gailey filed by Zillow, Inc. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(law) (Entered: 01/21/2021)
01/22/2021	<u>8</u>	ORDER GRANTING <u>6</u> Motion of Heather P. Lamberg, Esq. for Admission Pro Hac Vice. Signed by Judge Christina Reiss on 1/22/2021. (This is a text-only Order.) (ejh) (Entered: 01/22/2021)
01/22/2021	<u>9</u>	ORDER GRANTING <u>7</u> Motion of Lauren Gailey, Esq. for Admission Pro Hac Vice. Signed by Judge Christina Reiss on 1/22/2021. (This is a text-only Order.) (ejh) (Entered: 01/22/2021)
01/22/2021	<u>10</u>	ORDER GRANTING <u>4</u> Stipulated Motion for Extension of Time to Answer. Signed by Judge Christina Reiss on 1/22/2021. (This is a text-only Order.) (ejh) (Entered: 01/22/2021)
02/01/2021	<u>11</u>	RECEIVED FILE and certified copy of docket sheet from State Court. (kp) (Entered: 02/01/2021)
02/01/2021	<u>12</u>	COMPLAINT against Zillow, Inc. filed by Picket Fence Preview, Inc. (<i>originally filed 12/16/2020 in state court</i>) (kp) (Entered: 02/01/2021)
02/01/2021	<u>13</u>	NOTICE of Assigned Case Number. (<i>originally filed 12/16/2020 in state court</i>) (kp) (Entered: 02/01/2021)
02/01/2021	<u>14</u>	NOTICE of Filing <u>1</u> Notice of Removal by Zillow, Inc. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Certificate of Service) (<i>originally filed 1/19/2021 in state court</i>) (kp) (Entered: 02/01/2021)
02/25/2021	<u>15</u>	MOTION to Dismiss for Failure to State a Claim filed by Zillow, Inc.. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D)(Henry, Kevin) (Main Document 15 replaced on 3/1/2021) (jlh). (Attachment 1 replaced on 3/1/2021) (jlh). (Attachment 2 replaced on 3/1/2021) (jlh). (Entered: 02/25/2021)
03/01/2021	<u>16</u>	NOTICE OF DOCKET ENTRY CORRECTION re: <u>15</u> MOTION to Dismiss for Failure to State a Claim filed by Zillow, Inc. The Main Document, Memorandum in Support, and Exhibit A have been replaced to correct formatting issues. The corrected documents are now attached to <u>15</u> as well as this entry. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit A) (jlh) (Entered: 03/01/2021)
03/25/2021	<u>17</u>	RESPONSE in Opposition to <u>15</u> MOTION to Dismiss for Failure to State a Claim filed by Picket Fence Preview, Inc. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6)(Nuovo, Thomas) (Entered: 03/25/2021)
04/08/2021	<u>18</u>	REPLY to Response to <u>15</u> MOTION to Dismiss for Failure to State a Claim filed by Zillow, Inc.. (Henry, Kevin) (Entered: 04/08/2021)
04/30/2021	<u>19</u>	NOTICE of Hearing re: <u>15</u> MOTION to Dismiss for Failure to State a Claim. Motion Hearing set for 7/13/2021 at 10:00 AM, via videoconference, in Burlington Courtroom 510 before Judge Christina Reiss.(jbr) (Entered: 04/30/2021)
07/13/2021	<u>20</u>	MINUTE ENTRY for proceedings held before Judge Christina Reiss: Motion Hearing held on 7/13/2021 re: <u>15</u> MOTION to Dismiss for Failure to State a Claim. Present on videoconference: Thomas Nuovo, Esq., for Pltf. Heather Lamberg, Esq., Kevin Henry, Esq., and Lauren Gailey, Esq., for Dft. Court makes inquiries. Statements by counsel. ORDERED: Motions Taken Under Advisement: <u>15</u> MOTION to Dismiss for Failure to State a Claim. (Court Reporter: Johanna Masse) (jbr) (Entered: 07/13/2021)

08/19/2021	<u>21</u>	OPINION AND ORDER granting <u>15</u> Motion to Dismiss for Failure to State a Claim. Plaintiff is granted leave to file an Amended Complaint within 20 days. Signed by Judge Christina Reiss on 8/19/2021. (jbr) Text clarified on 8/19/2021 (law). (Entered: 08/19/2021)
09/01/2021	<u>22</u>	STIPULATED MOTION for Extension of Time to File Amended Complaint filed by Picket Fence Preview, Inc. (Attachments: # <u>1</u> Certificate of Service)(Nuovo, Thomas) Event/Text clarified on 9/1/2021 (jlh) (Entered: 09/01/2021)
09/02/2021	<u>23</u>	ORDER GRANTING <u>22</u> Stipulated Motion for Extension of Time to File Amended Complaint. Signed by Judge Christina Reiss on 9/2/2021. (This is a text-only Order.) (ejh) (Entered: 09/02/2021)
09/21/2021	<u>24</u>	MOTION to Amend <u>12</u> Complaint filed by Picket Fence Preview, Inc. (Attachments: # <u>1</u> Proposed Amended Complaint, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Red-Lined Proposed Amended Complaint, # <u>6</u> Certificate of Service)(Nuovo, Thomas) Attachment descriptions clarified on 9/21/2021 (law). (Entered: 09/21/2021)
09/21/2021	<u>25</u>	ORDER GRANTING <u>24</u> Motion to File Plaintiff's First Amended Complaint. Signed by Judge Christina Reiss on 9/21/2021. (This is a text-only Order.) (ejh) (Entered: 09/21/2021)
09/29/2021	<u>26</u>	TRANSCRIPT of Motion to Dismiss hearing held on July 13, 2021, before Judge Christina C. Reiss. Court Reporter/Transcriber Johanna Masse, telephone number (802) 951-8102. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/25/2021. Redacted Transcript Deadline set for 11/4/2021. Release of Transcript Restriction set for 1/3/2022. (law) (Entered: 09/29/2021)
10/06/2021	<u>27</u>	UNOPPOSED MOTION for Extension of Time to File Response to <u>24</u> Amended Complaint filed by Zillow, Inc. (Attachments: # <u>1</u> Declaration of Lauren Gailey, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Proposed Order)(Gailey, Lauren) (Entered: 10/06/2021)
10/07/2021	<u>28</u>	ORDER GRANTING <u>27</u> Unopposed Motion for Extension of Time to File Response to <u>24</u> Amended Complaint . Signed by Judge Christina Reiss on 10/7/2021. (This is a text-only Order.) (ejh) (Entered: 10/07/2021)
10/22/2021	<u>29</u>	MOTION to Dismiss Amended Complaint for Failure to State a Claim filed by Zillow, Inc. (Attachments: # <u>1</u> Memorandum in Support)(Henry, Kevin) (Entered: 10/22/2021)
11/18/2021	<u>30</u>	STIPULATED MOTION for Extension of Time to File Response/Reply as to <u>29</u> MOTION to Dismiss Amended Complaint for Failure to State a Claim filed by Picket Fence Preview, Inc.. (Attachments: # <u>1</u> Certificate of Service)(Nuovo, Thomas) Text clarified on 11/18/2021 (jlh) (Entered: 11/18/2021)
11/18/2021	<u>31</u>	ORDER GRANTING <u>30</u> Stipulated Motion for Extension of Time to File Response/Reply as to <u>29</u> Motion to Dismiss Amended Complaint for Failure to State a Claim. Signed by Judge Christina Reiss on 11/18/2021. (This is a text-only Order.) (ejh) (Entered: 11/18/2021)
12/13/2021	<u>32</u>	RESPONSE in Opposition to <u>29</u> MOTION to Dismiss Amended Complaint for Failure to State a Claim filed by Picket Fence Preview, Inc.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Certificate of Service)(Nuovo, Thomas) (Entered: 12/13/2021)
01/11/2022	<u>33</u>	REPLY to Response to <u>29</u> MOTION to Dismiss Amended Complaint for Failure to State a Claim filed by Zillow, Inc.. (Henry, Kevin) (Entered: 01/11/2022)
01/25/2022	<u>34</u>	MOTION for Hearing re <u>29</u> MOTION to Dismiss Amended Complaint for Failure to State a Claim filed by Picket Fence Preview, Inc. (Attachments: # <u>1</u> Certificate of Service)(Nuovo, Thomas) (Entered: 01/25/2022)
02/01/2022	<u>35</u>	RESPONSE in Opposition re <u>34</u> MOTION for Hearing re <u>29</u> MOTION to Dismiss Amended Complaint for Failure to State a Claim filed by Zillow, Inc.. (Henry, Kevin) (Entered: 02/01/2022)
02/09/2022	<u>36</u>	ORDER GRANTING <u>34</u> Motion for Hearing on Defendant's <u>29</u> Motion to Dismiss. Signed by Judge Christina Reiss on 2/9/2022. (This is a text-only Order.) (ejh) (Entered: 02/09/2022)

02/11/2022	<u>37</u>	NOTICE of Hearing re: <u>29</u> MOTION to Dismiss Amended Complaint for Failure to State a Claim. Motion Hearing set for 5/9/2022 at 10:00 AM in Burlington Courtroom 510 before Judge Christina Reiss.(jbr) (Entered: 02/11/2022)
05/09/2022	38	MINUTE ENTRY for proceedings held before Judge Christina Reiss: Motion Hearing held on 5/9/2022 re <u>29</u> MOTION to Dismiss Amended Complaint for Failure to State a Claim. Thomas Nuovo, Esq., present for Pltf. Lauren Gailey, Esq., Heather Lamberg, Esq., and Kevin Henry, Esq., present for Dft. Court makes inquiries. Statements by counsel. ORDERED: Motion Taken Under Advisement: <u>29</u> MOTION to Dismiss Amended Complaint for Failure to State a Claim. (Court Reporter: Johanna Masse) (sjl) (Entered: 05/09/2022)
05/18/2022	<u>39</u>	TRANSCRIPT of Motion to Dismiss hearing held on 5/9/2022, before Judge Christina Reiss. Court Reporter/Transcriber Johanna Masse, telephone number 802-951-8102. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/13/2022. Redacted Transcript Deadline set for 6/24/2022. Release of Transcript Restriction set for 8/19/2022. (jbr) (Entered: 05/18/2022)
08/23/2022	<u>40</u>	OPINION AND ORDER granting <u>29</u> Motion to Dismiss Amended Complaint for Failure to State a Claim. Because the court has previously granted Plaintiff leave to amend, it does not grant leave to amend for a second time <i>sua sponte</i> . Signed by Judge Christina Reiss on 8/23/2022. (sjl) (Entered: 08/23/2022)
08/24/2022	<u>41</u>	JUDGMENT – Amended Complaint is dismissed. Signed by Deputy Clerk on 8/24/2022. (Attachments: # <u>1</u> Notice to Litigants (<i>appeal period expires 9/23/2022</i>)) (sjl) (Entered: 08/24/2022)
09/13/2022	<u>42</u>	MOTION to Certify Question to the Vermont Supreme Court re <u>41</u> Judgment filed by Picket Fence Preview, Inc.. (Nuovo, Thomas) Modified on 9/13/2022 (sjl). (Entered: 09/13/2022)
09/21/2022	<u>43</u>	NOTICE OF APPEAL as to <u>40</u> Opinion and Order by Picket Fence Preview, Inc. (Nuovo, Thomas) (<i>re-entered to capture correct event on 9/21/2022</i>) (law) (Entered: 09/21/2022)
09/23/2022	44	USCA Appeal Fees received \$ 505.00 Paid. Receipt number 4682026602 re <u>43</u> Notice of Appeal filed by Picket Fence Preview, Inc. (gmg) (Entered: 09/23/2022)
09/27/2022	<u>45</u>	RESPONSE in Opposition re <u>42</u> MOTION to Certify Question to the Vermont Supreme Court re <u>41</u> Judgment filed by Zillow, Inc.. (Henry, Kevin) (Entered: 09/27/2022)

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

PICKET FENCE INC.,
Plaintiff - Appellant,

vs.

Circuit No. 22-2066

District No. 2:21-cv-12

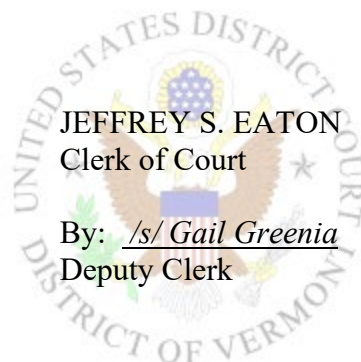
ZILLOW, INC.,
Defendant - Appellee.

CLERK'S CERTIFICATION

I, Jeffrey S. Eaton, Clerk of the United States District Court for the District of Vermont, hereby certify that the electronic index comprises the foregoing docket entries, and constitutes the Record on Appeal.

In testimony whereof, I have hereunto subscribed my name and affixed the Seal of the aforesaid Court at Burlington, Vermont this 28th day of September, 2022.

JEFFREY S. EATON
Clerk of Court
By: /s/ Gail Greenia
Deputy Clerk

The seal of the United States District Court for the District of Vermont is visible in the background. It is a circular seal with the text "UNITED STATES DISTRICT COURT" around the top and "DISTRICT OF VERMONT" around the bottom. In the center is a shield with a blue field containing a white star and a green field containing a white pine tree. The shield is flanked by two green pine branches.